

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rita Bobe-Saleh (T2)	Team: Team # 2	CCRB Case #: 201310644	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 11/08/2013 6:30 PM	Location of Incident: § 87(2)(b)	Precinct: 41	18 Mo. SOL 5/8/2015	EO SOL 5/8/2015	
Date/Time CV Reported Tue, 11/12/2013 4:16 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/12/2013 4:16 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Alberto Pizarro	04954	934070	NARCBBX
2. Officers			NARCBBX
3. LT Joseph Kourakos	00000	924039	NARCBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Peter Valentin	02708	929577	NARCBBX
2. DT3 Anthony Rumph	06686	913189	NARCBBX
3. DT3 Carlos Marchena	06212	930647	NARCBBX
4. POM Jose Cintron	17999	946638	NARCBBX

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Alberto Pizarro	Abuse: Det. Alberto Pizarro stopped § 87(2)(b)	§ 87(2)(b)
B.DT3 Alberto Pizarro	Abuse: Det. Alberto Pizarro frisked § 87(2)(b)	§ 87(2)(b)
C.DT3 Alberto Pizarro	Abuse: Det. Alberto Pizarro searched § 87(2)(b)	§ 87(2)(b)
D. Officers	Abuse: Officers drew their guns.	§ 87(2)(b)
E.LT Joseph Kourakos	Abuse: Lt. Joseph Kourakos authorized the entry and search of § 87(2)(b) in the Bronx.	§ 87(2)(b)
F.DT3 Alberto Pizarro	Force: Det. Alberto Pizarro used physical force against § 87(2)(b)	§ 87(2)(b)
G.DT3 Alberto Pizarro	Abuse: Det. Alberto Pizarro refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

The following incident was captured by video obtained from the building management of § 87(2)(b) in the Bronx. There are three videos; Video 1 is the exit to § 87(2)(b) § 87(2)(b) Video 2 is the vestibule area of § 87(2)(b) § 87(2)(b) and Video 3 is the § 87(2)(b) § 87(2)(b) § 87(2)(b) (See Board Review : Video 1, 2 and 3 and detailed video review).

Since this incident stemming from November 8, 2013, an article in the Daily News published April 11, 2014, revealed that the subject officers, Lt. Joseph Kourakos, and Det. Alberto Pizarro as well as a witness officer, Det. Peter Valentin, all from Narcotics Borough Bronx, have been placed on modified duty as a result of an IAB investigation that found that they fabricated information from an informant to obtain search warrants (see Board Review: Daily News Article). As of the date of this report, these three officers have been served charges and specifications for two unrelated incidents where such actions took place during September and October of 2014. § 87(2)(g)

On November 8, 2013, at approximately 6:30 p.m., § 87(2)(b) exited his building located at § 87(2)(b) § 87(2)(b) in the Bronx, to throw away the garbage. Within seconds, he returned to the entrance of the building and was followed inside by a team of officers assigned to Narcotics Borough Bronx, all in plainclothes. Det. Alberto Pizarro stopped § 87(2)(b) in the vestibule and immediately frisked and searched him (**Allegations A, B and C**). The remainder of the officers, Det. Carlos Marchena, Lt. Joseph Kourakos, Det. Anthony Rumph, Det. Jose Cintron, and Det. Peter Valentin all went up to the second floor immediately and had no interactions with § 87(2)(b) who resides in § 87(2)(b). § 87(2)(b) was handcuffed and was seated in the § 87(2)(b) hallway. While Det. Cintron remained with him, officers allegedly drew their guns (**Allegation D**). Lt. Kourakos and the remainder of the above mentioned team entered § 87(2)(b) (**Allegation E**). § 87(2)(b)'s father and § 87(2)(b)'s child's mother, protested the officer's entry and the officers exited the residence. § 87(2)(b) was un-cuffed and eventually interacted with Det. Pizarro punched him once in the face (**Allegation F**). § 87(2)(b) made a general request for name and shield numbers, and Det. Pizarro acknowledged hearing the request but refused to provide the information (**Allegation G**). The officers left the location without making any arrest or issuing any summonses. § 87(4-b) § 87(2)(g)

§ 87(2)(g)

Mediation and Criminal Conviction Histories

This case was not eligible for mediation due to a lawsuit and because all the officers involved in the case have been placed on modified duty while being investigated by IAB. A Notice of Claim Request is still pending as of the writing of this report.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- Det. Pizarro has been a member of the service for 11 years and has 33 CCRB allegations, nearly half which are physical force allegations including two chokehold allegations. He was substantiated for one allegation for a vehicle stop in case number 201110628, the Board recommended instructions and the NYPD pursued no disciplinary action (see Officer History).
- Lt. Kourakos has been a member of the service for 15 years and has 37 CCRB allegations. He has 3 substantiated allegations from two separate cases, #200406903 and 200613086 for stop allegations and a frisk allegation. The Board recommended charges for all three allegations and the NYPD issued instructions in the first stop allegation, and Command Discipline A in the 2nd case involving a stop and frisk allegation (see Officer History).
- This is [§ 87(2)(b)]'s first CCRB complaint (see Board Review: C/v History).

Findings and Recommendations

Allegations not pleaded

[§ 87(2)(g)]

[§ 87(2)(g)]

Conclusion

Identification of Subject Officers

Det. Pizarro made the decision to stop and frisk [§ 87(2)(b)] prior to Lt. Kourakos ever observing [§ 87(2)(b)] and [§ 87(2)(g)]. Additionally, Det. Pizarro was identified as the subject of the punch allegation and of the refusal to provide name and shield number. [§ 87(2)(g)]

Since Lt. Kourakos authorized the entry into [§ 87(2)(b)]'s residence, [§ 87(2)(g)]

[§ 87(4-b) § 87(2)(g)]

[§ 87(2)(g)]

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: Det. Alberto Pizarro stopped § 87(2)(b)

Allegation B- Abuse of Authority: Det. Alberto Pizarro frisked § 87(2)(b)

Allegation C- Abuse of Authority: Det. Alberto Pizarro searched § 87(2)(b)

By all accounts, and the video footage, it is undisputed that Det. Pizarro stopped and frisked

§ 87(2)(b)

§ 87(2)(g)

To stop an individual, the police must have reasonable suspicion that the person is committing, about to commit, or has committed a crime, N.Y. C.P.L. 140.50. A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises, N.Y. Penal Law 140.05. An officer may frisk an individual if he or she possesses a particularized reasonable suspicion that the person is armed and dangerous. People v. Gonzalez, 295 A.D. 2d. (App. Div. 1st Dept. 2002). A limited, protective search for weapons may be conducted if the officer reasonably suspects he or she is in danger of physical injury, N.Y. CPL 140.50 (3) (see Board Review: Supporting Legal Cases).

The video footage (see Board Review: Video 1 and Video 2) confirms § 87(2)(b)'s testimony (see Board Review: § 87(2)(b)'s statement) that he exited § 87(2)(b) § 87(2)(b) to throw away two bags of garbage. Within 20 seconds he returned to the entrance of the building, and is followed by Det. Pizarro and Det. Valentin. § 87(2)(b) took out his keys, and unlocked the front door as he turned to look towards the officers who were standing directly behind him. As § 87(2)(b) opened the door, both officers followed him and Det. Pizarro immediately placed his hands on § 87(2)(b)'s waist area and guided him to the mailboxes. § 87(2)(b) raised his arms and made no other physical movements as Det. Pizarro frisked and searched him. Det. Pizarro solely interacted with § 87(2)(b) as the other officers made their way to the second floor. § 87(2)(b) alleged that his pockets were searched and his identification removed from his pocket (see Allegation C). § 87(2)(b) was asked a few times where he lived and he told the officers that he resided in § 87(2)(b).

Det. Pizarro noted that the officers went to the § 87(2)(b) to conduct a home visit at § 87(2)(b) (See Board Review: Det. Pizarro statement). Det. Pizarro had no prior knowledge that § 87(2)(b) resided in § 87(2)(b) and he was not a person of interest to the officers. Det. Pizarro initially noted that people hang out, loiter in the lobby of buildings or take over other people's apartments to sell drugs. Det. Pizarro clarified that none of these factors applied to § 87(2)(b) and the sole intention of the stop was to establish if § 87(2)(b) resided in the building. Det. Pizarro denied observing how § 87(2)(b) gained entry into the building, denied that he used his keys to gain access and that Video #1 did not refresh his recollection of these events. § 87(2)(b) informed the officers the he resided in the building but did not have his ID.

Det. Pizarro acknowledged that he placed his hands on § 87(2)(b) within taking two steps into the building and frisked § 87(2)(b) immediately to establish if he had any weapons for the following reasons: he did not have identification, this was a drug prone location, and based on an unrelated search warrant execution in the building in the past, they recovered firearms. Det.

Pizarro did not observe any bulges on § 87(2)(b) and had no other reason to believe that he had a weapon. Det. Pizarro did not recall searching § 87(2)(b) or removing his identification.

§ 87(2)(g)

Allegation D- Abuse of Authority: Officers drew their guns.

§ 87(2)(b) alleged that officers drew their guns when they entered his residence. There was no confirmation that he made this observation of each officer that entered this location. § 87(2)(b) provided a telephone statement nearly a year and half later and could only confirm that officers entered with their guns drawn but also could not be specific if each officer drew their gun (see Board Review: § 87(2)(b)'s phone statement). § 87(2)(b) indicated that upon seeing him, the officers immediately re-holstered their guns. § 87(2)(b) did not cooperate nor did she provide any type of statement about the entry to the CCRB.

None of the officers recalled whether they drew their guns upon entry. The video footage does not clearly capture whether officer's had their guns drawn prior to stepping into the apartment.

§ 87(2)(g)

Allegation E- Abuse of Authority: Lt. Joseph Kourakos authorized the entry and search of § 87(2)(b) in the Bronx.

It is undisputed that Lt. Kourakos authorized a warrantless entry into § 87(2)(b)'s residence.

In order to satisfy entry under the emergency doctrine, officers must have the following: (1) reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for protection of life or property; (2) the search must not be motivated by intent to arrest or seize evidence; (3) there must be a reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. People v. Dallas, 8 N.Y.3d 890 (2007) (see Board Review: Supporting Legal Cases).

Video #3 showed all the officers walking up the last set of stairs leading to the § 87(2)(b) hallway with § 87(2)(b) and Det. Pizarro was the last officer to make it up to the hallway. § 87(2)(b) is clearly handcuffed. § 87(2)(b) was seated on the floor next to his apartment door while being guarded by Det. Cintron as the remainder of the narcotics team entered the residence. § 87(2)(b) indicated that the door was closed but which cannot be confirmed from Video #3. § 87(2)(b) provided a brief phone statement; he did not know whether the door was open or not but noted that he was playing with his young granddaughter who he was visiting when he observed officers approach him in the living room, located about 10 feet from the door. § 87(2)(b) did not recall if the television was on, but knew that he was not yelling or screaming with § 87(2)(b) § 87(2)(b). § 87(2)(b) asked the officers repeatedly why they came into the apartment and told them to get out. § 87(2)(b) observed officers enter a closed bedroom located across from the living room and then they exited the residence. § 87(2)(b) did not cooperate or provide a statement about the entry. Video #3 confirmed that the officers were in the apartment for about 1 minute and 40 seconds.

By all officer statements, they went to § 87(2)(b) to conduct a home visit with regards to a kite complaint. Lt. Kourakos indicated that the purpose was to speak to the residents and inform them about the particular complaint (see Board Review: Lt. Kourakos statement). Lt. Kourakos believed that the complaint had been generated a week or so earlier with regards to narcotics being sold at the location as well as the potential existence of a firearm. None of the officers interviewed could confirm who the lead detective for this kite was. Lt. Kourakos and Det. Valentin indicated that they heard arguing or screaming coming from the apartment as they were in the staircase making their way up. Det. Valentin could not describe what the screaming or yelling was about, what statements, or whether the voice was that of a man and/or woman (see Board Review: Det. Valentin statement). Det. Pizarro was later informed about the yelling by Lt. Kourakos and did not hear any yelling or screaming before or during his entry into the residence. Lt. Kourakos indicated that the officers went in to make sure everything was ok when they encountered § 87(2)(b) who told the officers to get out. All the officers interviewed denied any further intrusion into the residence and that they immediately exited the location upon § 87(2)(b)'s insistence.

§ 87(2)(e), § 87(2)(f)

The officers including Lt. Kourakos attempted to obtain an emergency search warrant which was denied by the District Attorney's office due to insufficient evidence. Det. Valentin and Det. Pizarro denied that these events had any bearing as to their home visit to § 87(2)(b)'s residence. Lt. Kourakos, however, described these exact events as well as drug complaints for the location as the reason for the home visit. Documentation was obtained from the Intelligence Division of past history drug complaints for § 87(2)(b) and it revealed that only one complaint had been generated that was closed out by the narcotics division on September 20, 2013 as negative, two months prior to this incident (see Board Review: Past drug complaints). No other complaints had been made as asserted by Lt. Kourakos, which further supports that the entry was motivated by the denial of the emergency search warrant on the prior day to this incident.

§ 87(2)(g)

Allegation F-Force: Det. Alberto Pizarro used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) alleged that once his handcuffs were removed, he approached Det. Pizarro and asked repeatedly for his identification, which Det. Pizarro had taken from him in the vestibule during the search of his person. Det. Pizarro returned § 87(2)(b)'s identification and then punched § 87(2)(b) once with his left hand on his right eye later causing headaches and blurry vision. § 87(2)(b)

§ 87(2)(b) indicated that § 87(2)(b) witnessed this part of the incident. § 87(2)(b) did not cooperate with this investigation and provided no statements to the CCRB with regards. § 87(2)(b) provided a statement nearly a year and a half after the incident and did not recall any physical force being used against § 87(2)(b). Det. Pizarro denied that he punched or used any type of physical force against § 87(2)(b). None of the interviewed officers acknowledged witnessing these actions.

At the 3 minute 39 second to 40 second mark of Video #3, Det. Pizarro raised his left arm up once towards § 87(2)(b) above the shoulder level. He did not cock his arm as though to punch. In slow motion review, it appears that physical contact is made in the direction of § 87(2)(b)'s face. § 87(2)(b) instantaneously positioned himself in front of § 87(2)(b) with his arms up to the ceiling as though he was trying to protect him or keep distance between him and Det. Pizarro. § 87(2)(b) had not made any physical movements prior to or after Det. Pizarro punched him. All the officers had been walking away to leave the location and Lt. Kourakos returned, appeared to say something to § 87(2)(b) and § 87(2)(b) and then guided Det. Pizarro towards the staircase. § 87(2)(b) had not yet descended the staircase, which means he did not in fact witness this portion of the incident.

§ 87(2)(b) sought medical treatment two days after this incident (see Medical Records) and his main complaint was that he was punched in the head and right cheek and that he was suffering from headaches and blurry vision. He was prescribed Tylenol for his headaches. No visible injuries were noted in the records.

Patrol Guide Procedure 203-11 states that an officer may use minimal force to overcome resistance (see Board Review: Supporting Legal Cases).

§ 87(2)(g)

Allegation G-Abuse: Det. Alberto Pizarro refused to provide his name and shield number to

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) stated that he asked Det. Pizarro to provide his name and shield number repeatedly, that Det. Pizarro acknowledged the request but refused to do so. § 87(2)(b) did not cooperate with the CCRB and § 87(2)(b) did not recall this part of the incident.

Det. Pizarro denied that he did not provide his name and shield number upon request, noting that he in fact provided his name and shield number to § 87(2)(b). All the officers denied witnessing this allegation. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g) [Redacted]
[Redacted]
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[Redacted]
[Redacted]

Team: Strike Team

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date